

REMARKS

Claims 1-8, and 23-30 are all the claims pending in the application. By this Amendment, Applicant is amending claims 1, 3, and 27-28. Applicant requests that the Amendments be entered because they place the application in better condition for appeal by eliminating the 35 U.S.C. § 112 issues and do not raise any new issues that would require further consideration or searching.

Applicant thanks the Examiner for initialing the references filed with the Information Disclosure Statement filed on December 21, 2005 and February 24, 2006.

Claim Rejections under 35 U.S.C. § 112

A. Claims 1 and 3-7 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner argues that “it is not understood what applicant regards as ‘an electrically active thin film device layer’ since there is no specific definition of this device layer.” The informalities noted by the Examiner have been corrected. Support for the correction may be found on page 9, lines 5-10 of the specification. Thus, withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 U.S.C. § 102

A. Claims 1 and 4-6, as best understood, are rejected under 35 U.S.C. § 102(e) as being anticipated by Burroughes et al. (U.S. Patent 6,592,969). Applicant respectfully traverses.

Amended claim 1 recites, in part, “an electrically active thin film layer disposed directly on the substrate.” The Examiner argues that Burroughes teaches all of the elements of claim 1. Burroughes teaches a flexible component for use as an outer protective element in an electronic or opto-electronic device, which includes an electrically active organic layer comprising a layer of glass and a layer of plastic. On page 3 of the current Office Action, the Examiner defines an “electrically active thin film” as a “specific structure in which the thin film functions as ‘electrically active’ (i.e. emission layer in a thin film light emitting device)...” Based on the definition provided by the Examiner, Burroughes teaches an electrically active film that is separated from a substrate by a first electrode material. See FIG. 1. elements 8 and 6 and col. 4, lines 28-37. Claim 1 requires that the electrically active thin film be disposed *directly* on a substrate. Burroughes fails to teach this limitation of the invention claimed in claim 1. Therefore, claim 1 is patentable over the applied reference.

Claims 4-6 are patentable at least by virtue of their dependency from claim 1.

Claim Rejections under 35 U.S.C. § 103

A. Claims 3 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Burroughes et al. in view of Weaver et al. (U.S. Patent 2004/0079945).

Claim 3 is dependent from claim 1. Because Burroughes fails to disclose all of the elements of claim 1, as noted above, and because Weaver fails to cure the defects noted in Burroughes, claim 3 is patentable at least by virtue of its dependency from claim 1.

Amended claim 27 recites a limitation similar to that found in claim 1, “a thin film device disposed directly on the substrate...” Therefore, for reasons analogous to those presented for claim 1 with regard to Burroughes, and because Weaver fails to cure the defects noted in Burroughes, claim 27 is patentable over the applied art.

B. Claims 7, 28 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Burroughes et al. in view of Ishida (U.S. Patent 4,661,482).

Claim 7 depends from claim 1. Because Burroughes fails to disclose all of the elements of claim 1, as noted above, and because Ishida fails to cure the defects noted in Burroughes, claim 7 should be patentable at least by virtue of its dependency from claim 1.

Claims 28 and 30 recite a similar limitations to that recited in claim 1, “disposed directly on the substrate...” Therefore, for reasons analogous to those presented for claim 1 with regard to Burroughes, and because Ishida fails to cure the defects noted in Burroughes, claims 28 and 30 are patentable over the applied art.

Further, claims 7, 28 and 30 all recite, “wherein said flexible film has a thermal conductivity higher than 0.01 W/cm-deg.” The Examiner argues that Burroughes and Ishida teaches that the flexible film has a thermal conductivity higher than 0.01 W/cm deg because Burroughes teaches the use of a flexible film formed of plastic, Applicant’s disclosure teaches the use of copper to form the flexible film, and Ishida teaches plastic *or* copper for the flexible film. The Examiner further argues that the copper and plastic are equivalents based on the disclosures. Applicant presented arguments for the patentability of this issue in the Amendment filed January 19, 2006 by rebutting the Examiner’s arguments. In the Response to Arguments

section of the present Office Action, the Examiner takes Official Notice of the equivalents of plastic and copper for their use in the film layer. Applicant submits that the Examiner has taken improper Official Notice of an issue of patentable novelty.

MPEP 2144.03 has specific guidelines for when official notice may be taken. Specifically, “official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” MPEP 2144.03A. Further, “the notice of facts beyond the record which may be taken by the examiner must be ‘capable of such instant and unquestionable demonstration as to defy dispute’ (citing *In re Knapp Monarch Co.*, 296 F.2d 230 (CCPA 1961)).” *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970); see also MPEP 2144.03A.

Additionally, an Examiner may not rely on official or judicial notice at the exact point where patentable novelty is argued, but must come forward with pertinent prior art. See *Ex parte Cady*, 148 USPQ 162 (Pat. Off. Bd. App. & Inter. 1965). Thus, the Examiner’s reliance upon official notice should not be maintained since the Examiner has taken official notice on issues where patentable novelty is asserted.

Here, the Examiner has taken Official Notice of issues where Applicant has asserted patentable novelty. Furthermore, the Examiner has failed to provide pertinent prior art to rebut Applicant’s argument that Burroughes teaches away from using copper to form the flexible film. Instead, the Examiner has taken Official Notice to declare that copper and plastic are equivalent, without providing additional support for the assertion. Therefore, because the Examiner has

improperly taken Official Notice of the equivalence of copper and plastic, claims 7, 28 and 30 are patentable over the applied art.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

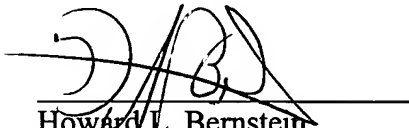
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